

**Amendment No. 1 to Amendment 1 to SB2318**

**McNally**  
**Signature of Sponsor**

**AMEND Senate Bill No. 2318**

**House Bill No. 2275\***

by deleting the language "an affiliate that is exempt from the tax" from the amendatory language of Section 30 of the bill and by substituting instead the language "an affiliate, whether or not such affiliate is subject to the tax".

AND FURTHER AMEND by deleting the language "by this part under § 67-4-2008(a)(9) or (11)" in its entirety from the amendatory language of Section 30 of the bill as amended and substituting instead the language "by this part".

AND FURTHER AMEND by deleting SECTION 82 in its entirety and by substituting instead the following:

SECTION 82. Tennessee Code Annotated, Section 67-4-711(a), is amended by deleting subdivision (5) in its entirety and by substituting instead the following:

(5)

(A) Amounts actually paid during the business tax period by a contractor to a subcontractor licensed by the state board for licensing contractors for performing the activities described in § 67-4-708(4)(A). For a contractor to be eligible to claim the deduction, such contractor must provide, on a form prescribed by the commissioner, the name, address, and business license or contractor's license number of the subcontractor and the amount subcontracted. The contractor also must maintain in its records a copy of the subcontractor's business license or license issued by the board for licensing contractors.

(B) The provisions of this subdivision (5) shall apply only to new contracts issued sixty (60) days after the effective date of this act.

Contracts issued before such date shall be subject to the provisions of this subdivision (5) as it existed immediately prior to the effective date of this act.

and is further amended by deleting subdivision (8) in its entirety and by substituting instead the following:

(8) A deduction from gross receipts shall be allowed for bad debts arising from receipts on which the tax imposed by this chapter was paid.

(A) Any deduction taken that is attributed to bad debts shall not include interest.

(B) For purpose of calculating the deduction, a "bad debt" is as defined in 26 U.S.C. § 166. However, the amount calculated pursuant to 26 U.S.C. § 166 shall be adjusted to exclude: financing charges or interest, sales or use taxes charged on the purchase price, uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid, expenses incurred in attempting to collect any debt, and repossessed property.

(C) The deduction provided for by this subdivision (8) shall be deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subdivision (8), a claimant who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return.

(D) If a deduction is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount so

collected shall be paid and reported on the return filed for the period in which the collection is made.

(E) When the amount of bad debt exceeds the amount of gross receipts for the period during which the bad debt is written off, the taxpayer may file a refund claim and receive a refund pursuant to § 67-1-1802. The statute of limitations for filing the claim shall be measured from the due date of the return on which the bad debt could first be claimed.

AND FURTHER AMEND by deleting SECTION 97 in its entirety and by substituting instead the following:

SECTION 97. Tennessee Code Annotated, Section 67-4-724, is amended by deleting the current language in its entirety and by substituting instead the following:

67-4-724.

(a) Except as otherwise provided in this section, all taxes collected by the commissioner under this part, including any associated interest and penalties, together with all amounts remitted to the department under § 67-4-710, shall be distributed as follows:

(1) An amount equal to seven dollars (\$7.00) per return shall be paid to the county clerk with respect to each tax return filed under § 67-4-715 by a taxpayer located within the county. Of such amount, two dollars (\$2.00) shall be earmarked for computer hardware purchases or replacement, but may be used for other usual and necessary computer related expenses at the discretion of the county clerk. The amount shall be preserved for these purposes and shall not revert to the general fund at the end of a budget year if unexpended.

(2) An amount equal to seven dollars (\$7.00) per return shall be paid to the appropriate city official with respect to each tax return filed under § 67-4-715 by a taxpayer located within the city.

(3) After the distributions provided in subdivisions (1) and (2) of this subsection, an amount equal to five percent (5%) of the remaining proceeds of the tax collected by the commissioner shall be paid to the county clerk, in the case of taxes levied under this part by a county, and the appropriate city official, in the case of taxes levied under this part by a municipality.

(4) After the distributions provided in subdivisions (1) – (3) of this subsection, fifty seven percent (57%) of the remaining proceeds of the tax collected by the commissioner under this part, less a reasonable administration fee as set forth in § 67-6-710(b)(2), shall be distributed to the county or municipality that levied the tax under this part and forty three percent (43%) shall be retained by the state and shall be earmarked and allocated specifically and exclusively to the state's general fund.

(b) Notwithstanding subsection (a), one hundred percent (100%) of the amount of any tax, interest, and penalty assessed by the commissioner as a result of an audit of the taxpayer's books and records shall be retained by the state and shall be earmarked and allocated specifically and exclusively to the state's general fund.

AND FURTHER AMEND by deleting the language "shall not be allowed to charge more than" from the amendatory language of Section 110 of the bill and by substituting instead the language "shall be allowed to charge a rate of interest not to exceed".

AND FURTHER AMEND by deleting the following language from the bill as amended:

SECTION 50. Tennessee Code Annotated, Section 67-6-221, is amended by deleting from subsection (a) the language "seven and one-half percent (7.5%)" and by substituting instead the language "nine and one-half percent (9.5%)".

SECTION 51. Tennessee Code Annotated, Section 67-6-329(a), is amended by deleting subdivision (15) in its entirety.

SECTION 52. Tennessee Code Annotated, Section 67-6-226, is amended by adding the following as a new, appropriately designated subdivision:

( ) A video programming service provider shall be considered the user and consumer of any home communication terminals, remote control devices, signal receiving devices, and other similar equipment purchased by the video programming service provider that is necessary in order for it to provide, or for its subscribers to receive, video programming services, regardless of whether such equipment is located inside the subscriber's residence or place of business and regardless of whether the video programming service provider makes a separately stated charge for the equipment.

SECTION 53. Tennessee Code Annotated, Section 67-6-227, is amended by adding the following as a new, appropriately designated subdivision:

( ) A direct-to-home satellite service provider shall be considered the user and consumer of any home communication terminals, remote control devices, signal receiving devices, and other similar equipment purchased by the direct-to-home satellite service provider that is necessary in order for it to provide, or for its subscribers to receive, television programming or television services, regardless of whether such equipment is located inside the subscriber's residence or place of business and regardless of whether the direct-to-home satellite service provider makes a separately stated charge for the equipment.